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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SIXTH APPELLATE DISTRICT

THERESA BARRERAS, Plaintiff and Appellant, v. COUNTY OF MONTEREY, Defendant and Respondent.	H044667 (Monterey County Super. Ct. No. M133285)

In 2014, appellant Theresa Barreras, then a psychiatric social worker employed by respondent the County of Monterey (County), accessed records for 65 County mental health patients and contacted them, encouraging them to attend an upcoming public board of supervisors (BOS) meeting to voice their concerns about their care. At the BOS meeting, Barreras addressed the board and spoke about deficiencies with the County's treatment of mental health patients. Following her comments, she gestured toward the audience and stated that there were individuals attending the meeting who were there because of their mental health issues, and 11 individuals stood up. Several individuals spoke at the meeting and identified themselves as County patients or family members of County patients.

After the County learned of Barreras's appearance at the BOS meeting, an investigation was launched into whether she had violated patients' privacy rights. Following its investigation, the County terminated Barreras's employment after it determined she had violated privacy laws and County polices and had demonstrated poor judgment by endangering the welfare of mental health patients. Barreras sued the County, alleging she was terminated as retaliation for exercising her free speech rights

and for raising concerns about the quality of the County's patient care. The trial court granted summary judgment in favor of the County after finding Barreras failed to provide evidence to demonstrate the County's legitimate, nonretaliatory reasons for her termination were untrue or pretextual.

On appeal, Barreras argues the trial court made erroneous evidentiary rulings. She also insists she satisfied her burden to show there were triable issues, requiring reversal of the judgment. As we explain below, we find no merit in her contentions and affirm the judgment.

BACKGROUND[1]

1. *Barreras's Complaint*

On September 14, 2015, Barreras filed a complaint against the County alleging that on November 12, 2014, she was terminated from her position as a psychiatric social worker as retaliation for advocating for her patients in violation of 42 United States Code section 1983.[2] Barreras claimed her termination occurred after she informed her patients of an opportunity to attend a public BOS meeting in June 2014 where they could express their concerns and seek redress for their grievances with the County's health department. Barreras further alleged the County's actions violated her rights under Health and Safety

[1] Preliminarily, we note that Barreras's opening brief does not comply with California Rules of Court, rule 8.204(a)(C), which requires that each brief "[s]upport any reference to a matter in the record by a citation to the volume and page number of the record where the matter appears. . . ." Although Barreras provides some citations to the record in the "legal discussion" section of her brief, the entirety of her "statement of facts" section is devoid of record citations. It is within our discretion to disregard contentions unsupported by citations to the record. (*City of Lincoln v. Barringer* (2002) 102 Cal.App.4th 1211, 1239, fn. 16.) Barreras's failure to comply with the rules of court has hampered our ability to review her claims. Nonetheless, we decline to completely disregard her arguments. To the extent her factual statements are unsupported, we "rely instead on respondent['s] statement of facts, which is supported by appropriate record references." (*Stasz v. Schwab* (2004) 121 Cal.App.4th 420, 424, fn. 1.)

[2] Barreras's complaint alleged three separate causes of action, all titled "intentional tort."

Code section 1278.5 (offering protection to whistleblowers in healthcare facilities) and Labor Code section 1102.5 (offering protection to whistleblowers for disclosing violations of state or federal laws, regulations, or rules).

2. *The County's Answer and Motion for Summary Judgment*

The County filed an answer to Barreras's complaint, denying all allegations and alleging numerous affirmative defenses. The County also moved for summary judgment. In its motion, the County argued Barreras's claim under 42 United States Code section 1983 claim failed, because she could not show that her protected speech was a substantial or motivating factor in the County's termination of her employment. The County asserted it had terminated Barreras's employment after she violated the Health Insurance Portability and Accountability Act (HIPAA) and County policies by accessing and using County patients' protected health information. The County also insisted Barreras had demonstrated poor judgment and had endangered the welfare of County patients. The County further argued her claims under Health and Safety Code section 1278.5 and Labor Code section 1102.5 failed, because Barreras could not demonstrate a link between her protected activity and the County's termination of her employment. Moreover, she did not engage in protected activity in the first place.

In its motion, the County explained that Barreras's HIPAA violations occurred when she came to work on Saturday, June 21, 2014, and accessed the County's database of electronic medical records for 65 mental health patients, 58 of whom were not in her assigned caseload. She contacted these patients and suggested they appear at a public BOS meeting to protest the termination of Dr. Gary Gibbs, a psychiatrist formerly employed by the County who had run the Mind/Body/Spirit program that Barreras helped

facilitate. According to the County, Barreras was terminated after an investigation and a *Skelly*[3] hearing.

3. *The County's Evidence Supporting Its Motion for Summary Judgment*

Barreras had been employed by the County's health department as a social worker for over seven years at the time she was terminated. She was first hired in April 2007 as a social worker III. She was subsequently promoted to the position of psychiatric social worker in February 2010, which she maintained until her termination in November 2014.

Due to her position, Barreras was familiar with HIPAA. On April 2, 2007, Barreras signed the "Monterey County Health Department HIPAA Privacy Acknowledgment," certifying she had read the County's HIPAA handbook. She acknowledged she understood the privacy acknowledgment statement, which stated in part: "I agree to: Access, use or modify protected health information only for the purposes of performing my official duties. Never access or use protected health information out of curiosity or for personal interest or advantage."

On June 21, 2014, a Saturday, Barreras logged into Avatar, a system used by the County to maintain patient health records, and accessed the confidential records of 65 mental health patients. John Ramirez, the County director designated as the *Skelly* officer to review the County's investigation of Barreras, recounted that only seven of the 65 patients were verified by County staff to be part of Barreras's assigned caseload.

Dr. Amie Miller, the behavioral health director for the County's health department, submitted a declaration in support of the County's motion. According to

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[3] In *Skelly v. State Personnel Bd.* (1975) 15 Cal.3d 194, the California Supreme Court held that an agency contemplating disciplinary action against a public employee must accord the employee certain safeguards. "The Supreme Court's directive gave rise to an administrative procedure known as a *Skelly* hearing, in which an employee has the opportunity to respond to the charges upon which the proposed discipline is based." (*Flippin v. Los Angeles City Bd. of Civil Service Commissioners* (2007) 148 Cal.App.4th 272, 280.)

Miller, Barreras accessed patient files for 58 patients not assigned to her. Miller explained that when information is accessed in Avatar, it is necessary to enter a reason for the access. Each time someone accesses data for clients not assigned to him or her, a warning screen will pop up in the Avatar database. In Barreras's case, she entered "updates" as the reason for each client access, which Miller opined was not sufficiently descriptive.

Dr. Miller attested that supervisors should be notified before an employee works on a Saturday, and she had no knowledge of Barreras informing her supervisor of her plan to use the Avatar system on Saturday, June 21, 2014. Ramirez's report reflected that Barreras was not the "on-call" caseworker that Saturday.

According to Barreras's own deposition, she accessed the records on June 21, 2014, to confirm or obtain phone numbers so she could call patients and suggest they attend the June 24, 2014 BOS meeting. Barreras asserted that she often worked on Saturdays. Barreras acknowledged she called 65 patients, including some patients assigned to other social workers. When she called the patients, she identified herself as a psychiatric social worker with the County's Mind/Body/Spirit program.

Lisa Brewer, an attorney hired by the County to conduct an investigation, prepared a report summarizing her findings. According to Brewer's report, Barreras decided which patients to contact "from memory" based on who she knew had concerns with the County or who were "de-comping."[4] Barreras acknowledged she did not tell anyone she was planning on contacting patients to attend the BOS meeting, and when asked if it had occurred to her that her supervisor might not want her to take such actions she replied that she "gave it no thought whatsoever."

[4] "De-comping" or "de-compensating" refers to a deterioration in mental health or worsening of symptoms.

Barreras stated in her deposition that the day of the public BOS hearing, she addressed the board and identified herself as a District 1 resident with a family member diagnosed with mental illness. She spoke about the concerns she had with patient care at the County's health department following Dr. Gibbs's departure. Barreras did not dispute that she appeared at the BOS meeting in her capacity as a constituent in her private time, not as a public employee, and she was speaking about personal matters.

Brewer's report indicated that when Barreras spoke to the board, she said, "There are people here today who because of their mental health issues or because of their lack of self-confidence aren't able to speak today and they are here with me," and then gestured to the audience. At that point, approximately 11 individuals stood up.

According to Dr. Robert Kurtz, the medical director for the County's health department, Barreras was not the lead clinician for the team facilitating the Mind/Body/Spirit program. Moreover, the presentations given for the Mind/Body/Spirit program, which were educational in nature, did not require writing chart notes in patients' files. The program was open for patients and staff to attend.

Wayne Clark, the director of the Behavioral Health Bureau, prepared a notice of proposed discipline explaining that Barreras had stated she contacted clients who she believed had treatment concerns or who were "deteriorating." Clark concluded Barreras had exposed these highly vulnerable clients to known risks, as anxiety from public speaking is well-known and encouraging those clients to speak publicly at a large forum risked their well-being. Several individuals spoke at the meeting and identified themselves as County patients or family members of County patients. Some of the patients who attended the meeting later reported that they were afraid or uncomfortable at the time. The County sent 63 active clients notice of HIPAA violations due to Barreras's conduct, and numerous clients contacted the County expressing their concerns over the breach of confidentiality. Clark recommended that Barreras be terminated.

Ramirez, the designated *Skelly* officer, reviewed the County's investigation and determined the proposed discipline recommending Barreras's termination should be upheld. Ramirez concluded that after his review, he found there was evidence that Barreras had violated multiple laws, committed gross misconduct, and recklessly endangered County patients. Ramirez found Barreras had used her position as a social worker with the County to protest Dr. Gibbs's termination, which was a personal objective. Noting that he agreed that Barreras had a right to express herself freely at the BOS meeting, Ramirez reiterated that the investigation and proposed discipline arose from her access of confidential patient records and violation of various HIPAA and County policies.

4. *Barreras's Evidence Supporting Her Opposition to the County's Motion for Summary Judgment*

In response to the County's motion, Barreras asserted her caseload included the patients she saw as part of the Mind/Body/Spirit program. Barreras submitted a declaration attesting that after Dr. Gibbs's departure from the County, Dr. Kurtz "assured [her] in conversation that this was an effective program, that it would continue operating and that for the time being, 'you are the Mind-Body-Spirit program.' " Moreover, Barreras declared she accessed Avatar only to *confirm* patient telephone numbers that she already maintained in her own nonelectronic contact list. According to Barreras, Dr. Gibbs had instructed her to keep her own patient contact list.

Barreras insisted she was terminated for exposing the County's health department's shortcomings at the BOS meeting. Moreover, she claimed her access of the patients' healthcare information was fully lawful and not a violation of HIPAA.

In addition to disputing the County's separate statement, Barreras provided additional facts. She said that based on Dr. Kurtz's statement to her, the Mind/Body/Spirit program did not dissolve upon Dr. Gibbs's departure. Moreover, she argued that based on the County's HIPAA handbook, she was authorized to use the

Avatar database to inform her Mind/Body/Spirit patients of services that may be of interest to them. Barreras asserted it was a BOS member who suggested that she offer her patients the opportunity to speak at the public BOS meeting.

Barreras pointed out that the County later retained Dr. Marshall Lewis to prepare a report detailing the quality of services being provided by the County, and Dr. Lewis made numerous findings that supported Barreras's previous concerns about the deficiencies within the County's system. Barreras claimed that Dr. Kurtz himself admitted that offering patients an opportunity to appear at a BOS meeting *may* be a reasonable resource to offer, citing to Kurtz's comments to Brewer during her investigation.[5]

In her declaration, Barreras indicated that in 2012, she and her colleagues forced Miller, the behavioral health director for the County's health department, to accept a co-facilitator to run meetings that were held to discuss improvements to the County's operations. Barreras also asserted she had met earlier with BOS members in April 2014 and had drafted a memorandum addressing the problems that she perceived existed with patient care. Later, Barreras received a response addressing the concerns raised in her April 2014 memorandum that included a reminder that the County has an "open door policy." In her deposition, Barreras also cited to a separate undated incident where she complained that employees of the adult behavioral health department did not have "flex time." Barreras claimed that after she raised these concerns, her "charts" and "stats" were monitored.

5. *The County's Objections to Barreras's Evidence*

The County made 22 objections to the evidence submitted by Barreras. It also submitted a supplemental declaration prepared by Dr. Kurtz, which refuted some of

[5] Kurtz told Brewer that "[offering the opportunity to appear at a BOS meeting] [may] be a reasonable thing to offer, but you don't go about it that way, and you would first discuss it with their treating physicians."

Barreras's earlier factual assertions. First, Kurtz stated that he never appointed Barreras to continue the Mind/Body/Spirit program, and the program was suspended and inactive following Dr. Gibbs's departure in April 2014. Moreover, Kurtz qualified his statement to Brewer that there may be circumstances where it is appropriate to offer patients the option to appear at a BOS meeting. He explained that no one should do so unless they first discussed it with a supervisor and with the patient's treating physician or team. According to Kurtz, attending a BOS meeting could have serious detrimental effects on patients.

6. *The Trial Court's Ruling on the County's Evidentiary Objections*

On January 10, 2017, the trial court issued its ruling on the County's 22 evidentiary objections, sustaining some of them and overruling the rest. The trial court sustained hearsay objections to Barreras's assertion that Dr. Gibbs had instructed her to maintain contact lists, and her assertion that Dr. Kurtz had told her after Dr. Gibbs's departure that "[she was] the Mind-Body-Spirit program." The court also sustained the County's hearsay objection to Barreras's statement that a BOS member suggested to her that she offer patients the opportunity to address the board at the public BOS meeting. The court further sustained evidentiary objections to Barreras's opinion that she was terminated from the County based on a retaliatory motive, and she had been told by other County employees that she was fired because of the events surrounding the BOS meeting.

The court also sustained the County's objections to Barreras's references to the report prepared by Dr. Lewis. The County had argued that Lewis's report had been prepared *after* Barreras's termination and was therefore irrelevant to the County's decision to terminate plaintiff. Moreover, Lewis's report undermined Barreras's claim that her termination was retaliatory, because its existence suggested the County was willing to have an independent evaluation of its services.

7. *The Trial Court's Ruling on the County's Motion for Summary Judgment and the Judgment in Favor of the County*

On January 30, 2017, the trial court granted the County's motion for summary judgment. The court determined that Barreras had established a prima facie case of retaliation. However, the County had demonstrated with admissible evidence that Barreras was terminated for legitimate, nondiscriminatory, nonretaliatory reasons based on her violation of HIPAA and "her poor judgment" in soliciting patients "not on her caseload" to appear at the June 24, 2014 BOS meeting.

The court determined the burden shifted back to Barreras to produce substantial evidence that the County's stated reasons were untrue or pretextual, or that the County acted with a discriminatory or retaliatory animus. The court concluded that aside from the temporal proximity between her appearance at the BOS meeting and her placement on administrative leave, Barreras failed to produce evidence to satisfy her burden. The court held that confirming patient telephone numbers was not a legitimate reason to access health information, and it was undisputed that she contacted patients assigned to other psychiatric social workers. Moreover, it was undisputed that Barreras did not speak with any physicians about her plan to contact patients to suggest they attend the BOS meeting. Barreras herself admitted she had not been disciplined or criticized for her act of attending the BOS meeting or for personally speaking at the BOS meeting. Thus, the court held she had not provided specific, substantial evidence to support her retaliation claim.

In the same order granting the County's motion for summary judgment, the court further entered judgment in favor of the County. Barreras moved for a new trial, which the trial court denied.

DISCUSSION

On appeal, Barreras argues the trial court made numerous erroneous evidentiary rulings that excluded relevant evidence. She argues the evidence she presented,

combined with the evidence erroneously excluded, created triable issues of material fact that precluded granting the County's motion for summary judgment. As we explain, we find no merit in Barreras's contentions and affirm the judgment.

1. *Legal Principles and Standard of Review*

a. **General Principles Regarding Summary Judgment**

Summary judgment is appropriate when there are no triable issues of material fact such that the moving party is entitled to judgment as a matter of law on all causes of action. (Code Civ. Proc., § 437c; *Schachter v. Citigroup, Inc.* (2009) 47 Cal.4th 610, 618 (*Schachter*).)

We review an order granting summary judgment de novo, applying the same three-step analysis as the trial court. (*Aguilar v. Atlantic Richfield Co.* (2001) 25 Cal.4th 826, 860; *Pipitone v. Williams* (2016) 244 Cal.App.4th 1437, 1449 (*Pipitone*).) First, we identify the causes of action framed by the pleadings. Second, we determine whether the moving party has satisfied its burden of showing the causes of action have no merit because one or more elements cannot be established, or that there is a complete defense to that cause of action. Third, if the moving party has made a prima facie showing that it is entitled to judgment as a matter of law, the burden of production shifts and we review whether the party opposing summary judgment has provided evidence of a triable issue of material fact as to the cause of action or a defense. (Code Civ. Proc., § 437c, subds. (o), (p)(2); *Pipitone*, *supra*, at p. 1449.) A party opposing summary judgment may not "rely upon the allegations or denials of its pleadings" but must set forth "specific facts" beyond the pleadings to show the existence of a triable issue of material fact. (Code Civ. Proc., § 437c, subd. (p)(2).) The evidence must be viewed in the light most favorable to the nonmoving party. (*Schachter*, *supra*, 47 Cal.4th at p. 618.)

b. **The *McDonnell Douglas* Framework**

In cases alleging employment discrimination or retaliation, we analyze the trial court's decision on a motion for summary judgment using the burden-shifting framework

established by the United States Supreme Court in *McDonnell Douglas Corp. v. Green* (1973) 411 U.S. 792. (*Serri v. Santa Clara University* (2014) 226 Cal.App.4th 830, 860 (*Serri*).) The three-step test described in *McDonnell Douglas* "reflects the principle that direct evidence of intentional discrimination [or retaliation] is rare, and that such claims must usually be proved circumstantially. Thus, by successive steps of increasingly narrow focus, the test allows discrimination [or retaliation] to be inferred from facts that create a reasonable likelihood of bias and are not satisfactorily explained." (*Guz v. Bechtel National Inc*. (2000) 24 Cal.4th 317, 354 (*Guz*).)

Under the first step of the *McDonnell Douglas* framework, the plaintiff must present a prima facie case of retaliation. The components of a prima facie case may vary, but typically require evidence that "(1) [the plaintiff] was a member of a protected class, (2) he was qualified for the position he sought or was performing competently in the position he held, (3) he suffered an adverse employment action, such as termination, demotion, or denial of an available job, and (4) some other circumstance suggests [a] discriminatory [or retaliatory] motive." (*Guz, supra*, 24 Cal.4th at p. 355.) A plaintiff that satisfies this prima facie showing shifts the burden to the employer to dispel the presumption of retaliation, which it may do by articulating a legitimate, nonretaliatory reason for the challenged employment action. (*Id*. at pp. 355-356.) Once the employer satisfies its burden, the presumption of retaliation disappears. The third step of the *McDonnell Douglas* framework requires the plaintiff have the opportunity "to attack the employer's proffered reasons as pretexts for discrimination [or retaliation], or to offer any other evidence of discriminatory [or retaliatory] motive." (*Id*. at p. 356.)

In the summary judgment context, " 'the employer, as the moving party, has the initial burden to present admissible evidence showing either that one or more elements of plaintiff's prima facie case is lacking or that the adverse employment action was based upon legitimate, nondiscriminatory [or retaliatory] factors.' " (*Serri, supra*, 226 Cal.App.4th at p. 861.)

If the employer meets this initial burden, the plaintiff must " 'demonstrate a triable issue by producing substantial evidence that the employer's stated reasons were untrue or pretextual, or that the employer acted with discriminatory [or retaliatory] *animus*, such that a reasonable trier of fact could conclude that the employer engaged in intentional discrimination [or retaliation] or other unlawful action.' " (*Serri*, *supra*, 226 Cal.App.4th at p. 861.) " ' "Circumstantial evidence of ' "pretense" must be "specific" and "substantial" in order to create a triable issue with respect to whether the employer intended to discriminate [or retaliate]' on an improper basis." ' " (*Husman v. Toyota Motor Credit Corp*. (2017) 12 Cal.App.5th 1168, 1182.)

c. **Standard of Review for Evidentiary Issues**

On appeal, Barreras alleges the trial court made erroneous evidentiary rulings. Citing *Pipitone*, *supra*, 244 Cal.App.4th 1437, Barreras claims we must review the trial court's rulings de novo. The County disagrees, claiming we must review the rulings for an abuse of discretion. (See, e.g., *Great American Ins. Cos. v. Gordon Trucking, Inc.* (2009) 165 Cal.App.4th 445, 449.)

We adhere to this court's decision in *Pipitone*, *supra*, 244 Cal.App.4th 1437. In *Pipitone*, we cited to *Reid v. Google, Inc.* (2010) 50 Cal.4th 512 and determined that under *Reid*, "on review of a summary judgment, in which evidentiary issues, and all issues, are decided on papers alone" we apply a de novo review. (*Pipitone*, *supra*, at p. 1451.) In *Reid*, our Supreme Court suggested a de novo standard of review applied to evidentiary rulings on summary judgment, observing that " '[b]ecause summary judgment is decided entirely on the papers, and presents only a question of law, it affords very few occasions, if any, for truly discretionary rulings on questions of evidence.' " (*Reid*, *supra*, at p. 535.)

d. **Principles Underlying Barreras's Causes of Action**

Barreras's complaint alleged her termination by the County violated 42 United States Code section 1983, Health and Safety Code section 1278.5, and Labor Code section 1102.5.

First, to demonstrate she was discharged in retaliation for exercising her First Amendment rights in violation of 42 United States Code section 1983, Barreras must show she engaged in protected speech or activity, and the speech and activity was a substantial or motivating factor for the discharge. (*Lachtman v. Regents of University of California* (2007) 158 Cal.App.4th 187, 214.) If Barreras meets this burden, the County "can escape liability by showing that it would have taken the same action even in the absence of the protected conduct." (*Board of Comm'rs, Wabaunsee Cty. v. Umbehr* (1996) 518 U.S. 668, 675.) We analyze Barreras's 42 United States Code section 1983 claim using the *McDonnell Douglas* burden-shifting framework. (*St. Mary's Honor Center v. Hicks* (1993) 509 U.S. 502, 506, fn. 1.)

Health and Safety Code section 1278.5 protects whistleblowers by prohibiting a "health facility" from retaliating against any "patient, employee, member of the medical staff, or any other health care worker of the health facility" (*id.*, subd. (b)(1)) because the individual has "[p]resented a grievance, complaint, or report to the facility, to an entity or agency responsible for accrediting or evaluating the facility, or the medical staff of the facility, or to any other governmental entity." (*Id.*, subd. (b)(1)(A).)

Like Health and Safety Code section 1278.5, Labor Code section 1102.5 is a whistleblower protection statute. Labor Code section 1102.5 provides that an employer "shall not retaliate against an employee for disclosing information . . . to a government or law enforcement agency, to a person with authority over the employee or another employee who has the authority to investigate, discover, or correct the violation of noncompliance, or for providing information to, or testifying before, any public body conducting an investigation, hearing, or inquiry, if the employee has reasonable cause to

believe that the information discloses a violation of state or federal statute, or a violation of or noncompliance with a local, state, or federal rule or regulation, regardless of whether disclosing the information is part of the employee's job duties." (*Id*., subd. (b).)

We also analyze Barreras's claims under Health and Safety Code section 1278.5 and Labor Code section 1102.5 under the *McDonnell Douglas* framework. (See *Armin v. Riverside Community Hospital* (2016) 5 Cal.App.5th 810, 830; *Akers v. County of San Diego* (2002) 95 Cal.App.4th 1441, 1453; *Morgan v. Regents of University of California* (2000) 88 Cal.App.4th 52, 68 (*Morgan*).)

2. *The County's Motion for Summary Judgment*[6]

Barreras argues that based on the evidence, a rational trier of fact could have determined the County's stated nonretaliatory reasons for her termination—her violations of HIPAA and County policies, her gross misconduct, and her lack of good personal judgment—were invalid.

Initially, we note that Barreras frames her arguments not as an attack on the trial court's conclusion that the County met its initial burden to articulate a nonretaliatory

[6] In her reply brief, Barreras argues that the County's brief erroneously suggests that our appellate review does not include the papers and proceedings involved in her motion for new trial. Although Barreras correctly states that a denial of a new trial motion may be reviewed on appeal from the underlying judgment (*Walker v. Los Angeles County Metropolitan Transportation Authority* (2005) 35 Cal.4th 15, 19), we believe she misconstrues the law when she claims that all of the evidence and argument submitted for her new trial motion should be considered when we examine whether summary judgment was properly granted in favor of the County. " 'The appellate court must examine only papers before the trial court when it considered the motion [for summary judgment], and not documents filed later.' " (*Seo v. All-Makes Overhead Doors* (2002) 97 Cal.App.4th 1193, 1201.)

We also note Barreras's reply brief takes issue with the trial court's decision to treat its motion for a new trial as a motion for reconsideration and its alleged decision not to rule on some of the evidentiary objections until after it granted summary judgment. Barreras did not raise these issues in her opening brief. Issues not raised in an appellant's opening brief are deemed waived on appeal. (*Aptos Council v. County of Santa Cruz* (2017) 10 Cal.App.5th 266, 296, fn. 7.)

reason for her termination but as an attack on the court's determination that *she* failed to meet *her* secondary burden under the *McDonnell Douglas* framework. The parties do not dispute that Barreras met her initial burden to establish a prima facie case of retaliation or that the County satisfied its burden to articulate a legitimate, nonretaliatory reason for its employment action.

Here, Barreras was required to establish a causal link between the protected activities (Barreras's appearance at the BOS meeting and her history of complaints about the County) and the adverse employment action with respect to each of her three causes of action. (*Patten v. Grant Joint Union High School Dist*. (2005) 134 Cal.App.4th 1378, 1384 [Lab. Code, § 1102.5, subd. (b)]; *Jadwin v. County of Kern* (E.D.Cal. 2009) 610 F.Supp.2d 1129, 1144 [Health & Saf. Code, § 1278.5]; *Lachtman v. Regents of University of California*, *supra*, 158 Cal.App.4th at p. 214 [42 U.S.C. § 1983].) Thus, we find that if she failed to provide specific, substantial evidence to support her argument that the County's stated reasons for her termination were pretextual, the County is entitled to summary judgment.

a. **Violation of HIPAA and County Privacy Policies**

Barreras argues there is evidence her termination was retaliatory, because she did not violate HIPAA or County privacy policies. She argues she was authorized to access the patients' information in the Avatar database, and, regardless, the information that she accessed (patient phone numbers) was not protected health information.

Before we address the merits of Barreras arguments, we note that our focus here is not on whether Barreras's actions *actually* violated HIPAA and County policies. Rather, it is whether any weakness in the County's assertion that she violated HIPAA and its policies—one of the reasons it cited for her termination—supports an inference that the County retaliated against Barreras for voicing her complaints. " '[E]vidence that the employer's claimed reason [for the employee's termination] is *false*—such as that it conflicts with other evidence, or appears to have been contrived after the fact—will tend

to suggest that the employer seeks to conceal the real reason for its actions, and this in turn may support an inference that the real reason was unlawful.' " (*Serri*, *supra*, 226 Cal.App.4th at p. 863.) However, "[t]his does not mean that the factfinder can examine the employer's stated reasons and impose liability solely because they are found wanting. But it can take account of manifest weaknesses in the cited reasons in considering whether those reasons constituted the real motive for the employer's actions, or have instead been asserted to mask a more sinister reality." (*Mamou v. Trendwest Resorts, Inc.* (2008) 165 Cal.App.4th 686, 715.)

In other words, a conclusion that Barreras did not violate HIPAA and County policies does not necessarily compel a finding that she has demonstrated there is a triable issue of material fact that the County's stated reasons were pretextual. " ' "The [employee] cannot simply show that the employer's decision was wrong or mistaken, since the factual dispute at issue is whether discriminatory [or retaliatory] animus motivated the employer, not whether the employer is wise, shrewd, prudent, or competent. [Citations.] Rather, the [employee] must demonstrate such weaknesses, implausibilities, inconsistencies, incoherencies, or contradictions in the employer's proffered legitimate reasons for its action that a reasonable factfinder *could* rationally find them 'unworthy of credence,' [citation], and hence infer 'that the employer did not act for [the asserted] non-discriminatory [or nonretaliatory] reasons.' " ' " (*Serri*, *supra*, 226 Cal.App.4th at p. 863.) "It is the employer's honest belief in the stated reasons for firing an employee and not the objective truth or falsity of the underlying facts that is at issue in a discrimination [or retaliation] case." (*King v. United Parcel Service, Inc.* (2007) 152 Cal.App.4th 426, 436 (*King*).) With these guiding principles in mind, we address Barreras's arguments.

i. *Access of Protected Health Information*

First, Barreras claims she did not access protected health information, because she only accessed phone numbers that had nothing to do with patients' medical treatments or

conditions. We believe Barreras's argument is at odds with HIPAA, its related regulations, and the County's interpretation of HIPAA as set forth in its handbook.

When it enacted HIPAA, "Congress expressed its concern for protecting the integrity and confidentiality of personal medical records, and for preventing the unauthorized use or disclosure of such records. (42 U.S.C. § 1320d-2(d)(2).)" (*Bugarin v. Chartone, Inc*. (2006) 135 Cal.App.4th 1558, 1561-1562.) As a result, the United States Department of Health and Human Services promulgated regulations to protect patient privacy, including 45 Code of Federal Regulations section 160.103. (*Bugarin v. Chartone, Inc*., *supra*, at p. 1562.) 45 Code of Federal Regulations section 160.103 defines "protected health information" as "individually identifiable health information" that is transmitted or maintained in electronic or other media.

HIPAA itself defines "[i]ndividually identifiable health information" as "any information, *including demographic information* collected from an individual that . . . [¶] (A) is created or received by a health care provider, health plan, employer, or health care clearinghouse; and [¶] (B) relates to the past, present, or future physical or mental health or condition of an individual, the provision of health care to an individual, or the past, present, or future payment for the provision of health care to an individual, and— [¶] (i) identifies the individual; or [¶] (ii) with respect to which there is a reasonable basis to believe that the information can be used to identify the individual." (42 U.S.C. § 1320d(6).) Under HIPAA, wrongfully obtaining or disclosing individually identifiable health information is subject to punishment. (42 U.S.C. § 1320d-6.)

Barreras argues a rational trier of fact could conclude that telephone numbers, such as the client phone numbers she accessed on the County's Avatar database, are not individually identifiable health information since they do not "relate[] to the past, present, or future physical or mental health or condition of the individual." (42 U.S.C. § 1320d(6)(B).) First, we do not agree with Barreras that the legal interpretation of HIPAA is a *factual* issue. Second, Barreras's argument misconstrues her burden under

the *McDonnell Douglas* framework. To meet her secondary burden on summary judgment, Barreras cannot merely demonstrate there is a triable issue or a dispute as to whether the County's interpretation of HIPAA was correct. As we stated earlier, the County's application of HIPAA is evidence of retaliation only *if* it is so implausible, weak, or incoherent that a rational trier of fact could infer that the County did not actually terminate her based on her alleged HIPAA violation. (*Serri*, *supra*, 226 Cal.App.4th at p. 863.) We believe the County's assertion that Barreras accessed protected health information when she looked up patient phone numbers is not susceptible to such an inference.

Barreras's argument ignores that 42 United States Code section 1320d(6) *also* provides that individually identifiable health information includes information related to "the provision of health care to an individual." (42 U.S.C. § 1320d(6)(B).) This broad definition of "individually identifiable health information" can be reasonably interpreted to include patient phone numbers. (42 U.S.C. § 1320d(6) [individually identifiable health information includes "demographic information"]; see also 45 C.F.R. § 164.514 [suggesting phone numbers are individually identifiable health information].)

Moreover, the County's HIPAA handbook, which Barreras acknowledged she read and understood, specifically identified phone numbers as personal health information. The handbook defines protected health information as "information which can be matched with a patient, is created in the process of caring for the patient, and is kept, filed, used or shared in an electronic, written or oral manner. Examples of [protected health information] are: patient name and address, birth date, age, medical record number, patient number, *phone and fax numbers*, e-mail addresses, medical records . . . ." (Italics added.)

In sum, we do not believe a rational trier of fact could conclude the County's determination that patient phone numbers were protected health information under HIPAA was inconsistent, incoherent, or implausible, giving rise to an inference that the

County was not being truthful when it cited to a HIPAA violation as a basis for Barreras's termination.

ii. *Authorized Use of Protected Health Information*

Next, Barreras argues her access of patient information through the County's Avatar system was authorized due to her involvement with the Mind/Body/Spirit program, the patient files she accessed were part of her "de facto" caseload, and the opportunity to speak at the BOS meeting can be readily interpreted as a treatment she offered to her patients. Thus, she claims she clearly did not violate HIPAA or County policies, which leads to an inference that the County's assertion to the contrary was meant to disguise its retaliatory animus.

Before we address the merits of Barreras's arguments on this issue, we first discuss her challenges to the trial court's evidentiary rulings. Barreras claims the trial court erroneously precluded her from presenting pertinent evidence supporting her position.

The first piece of excluded evidence is an assertion made in her separate statement of undisputed facts recounting a remark made by Dr. Gibbs. In Barreras's separate statement, she stated that "[i]t was routine for Plaintiff to contact the Mind/Body/Spirit patients, and Dr. Gibbs had instructed her to maintain her own contact list for these patients." The County objected to this entire statement as hearsay, arguing that Barreras was offering Dr. Gibbs's statement to prove the truth of the matter stated. (Evid. Code, § 1200.) The court sustained this objection.

We agree with Barreras that the trial court erred when it sustained the County's objection to this proffered evidence.[7] Dr. Gibbs's statement to Barreras was not a factual

[7] In its respondent's brief, the County argues that as the proponent of hearsay evidence, Barreras was obligated to " 'alert the court to the exception relied upon and [had] the burden of laying the proper foundation.' " (*Scott S. v. Superior Court* (2012) 204 Cal.App.4th 326, 342.) The County argues Barreras failed to establish a proper (continued)

assertion, it was a direction or request to complete a task. Such statements are not typically hearsay. (See *People v. Garcia* (2008) 168 Cal.App.4th 261, 289.) Here, Dr. Gibbs's remark was not introduced to prove the truth of the matter stated; it was offered as proof that the statement was made and of its *effect* on the listener, Barreras. Moreover, the first part of the paragraph, where Barreras states it was routine for her to contact Mind/Body/Spirit patients, is not hearsay at all.

Barreras also challenges the trial court's decision to sustain the County's objection to her evidence that following Dr. Gibbs's departure, Dr. Kurtz told her that for the time being, "you [Barreras] are the Mind-Body-Spirit program." The County objected to this statement as hearsay under Evidence Code section 1200, arguing Barreras was offering this statement as proof she was somehow the acting administrator of the Mind/Body/Spirit program following Dr. Gibbs's departure.

Barreras insists that like Dr. Gibbs's erroneously excluded statement, Dr. Kurtz's statement was merely a direction or request authorizing Barreras to continue working on the Mind/Body/Spirit program. We disagree. Here, Barreras offered Dr. Kurtz's statement as evidence that she was running the Mind/Body/Spirit program. In her opening brief, she argues "[t]he import, meaning and effect of this statement can reasonably be considered to be that Dr. Kurtz was thereby putting [Barreras] in charge of [Mind/Body/Spirit] for the time being." In other words, she is offering Dr. Kurtz's statement to prove the truth of the matter asserted. Thus, we find the court properly considered this statement to be hearsay and excluded it.

Barreras also argues the trial court erred when it sustained the County's objection to Dr. Kurtz's admission that it can be "appropriate" and "reasonable" to offer patients

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foundation below. We disagree. Barreras is not arguing that certain hearsay evidence should be *admissible*. She is arguing that these alleged out-of-court statements were not hearsay to begin with, because they were not offered for the truth of the matter stated as defined under Evidence Code section 1200, subdivision (a).

the opportunity (or resource) to address the Board. This admission was asserted in Barreras's separate statement of undisputed facts, and the support for this statement was listed as Kurtz's declaration and Brewer's declaration. The court sustained the County's objection to this statement as misstating testimony.

Based on our review of Kurtz's declaration, we agree with Barreras that her statement did *not* misconstrue Kurtz's statement that it *can* be appropriate to offer the patients the opportunity to address the BOS. As noted by the County, however, Kurtz *continued* by stating such action would not be appropriate without first discussing it with a supervisor and with the patient's treating physician or team. Thus, Barreras's statement was factually correct even though it did not recount *everything* Kurtz stated. The trial court thus erred in excluding this evidence.

Relying on the erroneously excluded statements made by Dr. Gibbs and Dr. Kurtz, Barreras claims there is a triable issue of material fact as to whether the Mind/Body/Spirit program still existed at the time she accessed the Avatar database and whether her use of the data was appropriate. Moreover, she disputes the County's assertion that she used the patient's information for an unauthorized purpose. We find that even if we consider all the erroneously excluded statements, the evidence does not create a triable issue of material fact as to whether the County's determination that she accessed client records without authorization was unreasonable or illogical.

First, even assuming Dr. Gibbs told Barreras to keep handwritten notes of all her patients' contact information, it was the fact that Barreras logged into Avatar and accessed protected health information that the County determined to be a violation of HIPAA. Additionally, even assuming the Mind/Body/Spirit program continued after Dr. Gibbs's departure, the fact that Dr. Kurtz said it *may* be appropriate to offer such resources does not create a triable issue of material fact as to the appropriateness of Barreras's actions. In the *same* declaration, Kurtz reiterated that in Barreras's case, he

believed *her* decision to offer this type of resource was inappropriate given that she did not consult each patients' treating physician or team.[8]

Barreras also argues that based on her job description, she was authorized to contact patients to offer them the opportunity to appear at the BOS meeting, which she identifies as a "treatment" since speaking at the BOS meeting may have an impact on a patient's subsequent care through the County.[9] Using protected health information to offer a "treatment" would not violate HIPAA, because it is a violation of HIPAA to use protected information except to the extent necessary for treatment, payment, or health care operations. (45 C.F.R. §§ 164.502, 164.508.) To support her position, Barreras cites to the definition of "treatment" found in 45 Code of Federal Regulations section 164.501: "the provision, coordination, or management of health care and related services by one or more health care providers, including the coordination or management of health care by a health care provider with a third party."

Despite the expansive definition of "treatment" found in HIPAA, Barreras's claim that this type of activity is a form of medical treatment strains credulity. Without deciding whether the County's interpretation of HIPAA is correct—that Barreras did *not* offer a valid medical treatment—we find its conclusion that her actions violate HIPAA is not so inconsistent or incomprehensible that it casts doubt on the veracity of its stated

[8] Barreras relies on Kurtz's assertion that it may be appropriate to offer such resources in certain circumstances to support her position. However, she claims that his caveat that offering such resources would be appropriate only if treating physicians are consulted is "arguably self-serving" and "is not documented or otherwise supported in the record." Barreras, however, does not offer evidence contradicting Dr. Kurtz's statement.

[9] In her opening brief, Barreras also claims the County erroneously attempts to detract from the legitimacy of her actions by asserting she had no business being at the office on the Saturday that she accessed the Avatar database. Barreras argues she submitted evidence demonstrating it was normal for her to work on weekends. Even if we were to assume Barreras typically worked on Saturdays, this fact does not suggest her *specific* actions on the Saturday in question were acceptable or otherwise authorized.

reasons for her termination.[10] The County's HIPAA handbook describes patient treatment as including services such as appointment reminders, payment of healthcare bills, and healthcare operations and business operations such as teaching and medical staff quality activities and communications between patients and their physicians. Attending a BOS meeting does not squarely fall within these enumerated activities.

Moreover, Barreras does not offer specific, substantial evidence demonstrating the County's assertion she violated County privacy policies was untrue or pretextual. Barreras signed the County's privacy acknowledgment statement, which stated in part: "I agree to: Access, use or modify protected health information only for the purposes of performing my official duties. Never access or use protected health information out of curiosity or for personal interest or advantage." Barreras herself said during her deposition that she appeared at the BOS meeting not as a public employee but as a constituent to speak about personal matters. Her own words support the County's determination that she improperly used protected health information for *personal* objectives, not for medical treatment, in violation of County policies.

Thus, even assuming Barreras's social worker caseload included the patients she contacted, and she was authorized to access such patient information, the County's belief that Barreras's actions violated HIPAA and County policies was not so absurd or implausible that it creates an inference that the real motive for her termination was retaliation.[11]

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[10] In its respondent's brief, the County also devotes attention to the fact that Barreras described her offering patients the opportunity to speak at the BOS meeting as a "resource" and not a "treatment." We do not believe Barreras's use of terms (resource versus treatment) is itself dispositive of the issue. But for the reasons described, we believe the County's conclusion that her actions were not a treatment offered to patients was reasonable and does not tend to demonstrate the existence of a retaliatory animus.

[11] Moreover, we note the County claims it sent 63 active clients notice of HIPAA violations due to Barreras's conduct. This action underscores that the County believed Barreras's conduct violated HIPAA.

b. **Poor Personal Judgment**

Barreras also claims the evidence demonstrates the County's assertion that she demonstrated poor judgment and recklessly endangered patients with her actions was merely pretext.

She first argues the trial court erroneously excluded evidence that a BOS member suggested she invite her patients to come and address the BOS. The County objected to this evidence as hearsay, which the trial court sustained. We agree with Barreras that the trial court erroneously excluded this statement. It was not offered for the truth of the matter; the only relevance was its effect on Barreras and the fact that the statement was made in the first place. (Evid. Code, § 1200 [statement is hearsay only when it is offered to prove the truth of the matter stated].)

Citing to the comment made by the BOS member, Barreras argues she provided evidence she exercised good judgment when she contacted the patients to alert them about the BOS meeting. We disagree. The fact that a BOS member suggested she ask patients to attend the meeting does not address the County's conclusion that asking patients to come to the BOS meeting *without* first consulting their treating physicians was poor judgment.

Barreras cites to other evidence she claims demonstrates her good judgment. She argues that following her termination from the County, she was appointed to the Monterey County Mental Health Commission. Moreover, her April 2014 performance evaluation was positive, describing her as having "sound clinical judgment, clarity of boundaries and true enthusiasm and enjoyment working with her clients."

Barreras's evidence demonstrates she generally performed well in her duties. This evidence, however, does not create an inference that her specific actions in July 2014, (contacting mental health patients and encouraging them to participate in the upcoming BOS meeting) demonstrated good judgment. Moreover, contrary to Barreras's claims, the County provided evidence that her actions adversely affected clients. The notice of

prepared discipline concluded Barreras had endangered vulnerable clients, as anxiety from public speaking is well-known and encouraging these clients to speak publicly at a large forum risked their well-being. Several patients later reported that they were afraid or uncomfortable during the BOS meeting. The County had to send 63 active clients notice of HIPAA violations due to Barreras's conduct, and numerous clients contacted the County expressing their concerns and anxiety over the breach of confidentiality. As the County notes, "loss of confidence in an employee" is a legitimate reason for dismissal. (*Serri*, *supra*, 226 Cal.App.4th at p. 861.)

c. **Barreras's Evidence of Pretext**

Aside from her attack on the validity of the County's termination based on her alleged violations of patient privacy rights, Barreras argues she provided additional evidence demonstrating the County had a retaliatory motive when it terminated her.

First, Barreras relies on the report prepared by Dr. Lewis investigating the quality of services being provided by the County, which was excluded as irrelevant by the trial court. Barreras claims Dr. Lewis made numerous findings that supported her concerns about the deficiencies with the County's system, and the admission of Dr. Lewis's report would have supported her credibility. Barreras argues Dr. Lewis's report is relevant, because it creates an inference of a pretext or retaliatory motive by demonstrating the truth of her criticisms.

Barreras concedes Dr. Lewis's report was hearsay evidence. Barreras sought to introduce Dr. Lewis's report as evidence that the County's mental health care system was deficient. As the proponent of hearsay evidence, she was obligated to " 'alert the court to the exception relied upon and [had] the burden of laying the proper foundation.' " (*Scott S. v. Superior Court*, *supra*, 204 Cal.App.4th at p. 342.) She failed to do so below, which does not preserve her claim on appeal.

We find that even if the trial court erroneously excluded this evidence, Barreras fails to demonstrate prejudice. A judgment of the trial court cannot be reversed based on

the erroneous admission of evidence unless the error was prejudicial. (Code Civ. Proc., § 475.) Dr. Lewis's report, which the *County* itself commissioned, does not create an inference that Barreras's termination was retaliatory. As the County argues, Dr. Lewis's report tends to show the County did *not* harbor a retaliatory animus when it terminated Barreras's employment, because its existence demonstrates the County was amenable to addressing the concerns raised by Barreras at the BOS meeting. Moreover, the fact that Dr. Lewis's report confirmed the complaints made by Barreras about the County's treatment of its mental health patients is not substantial evidence of retaliation. "[A] plaintiff's 'suspicions of improper motives . . . primarily based on conjecture and speculation' are not sufficient to raise a triable issue of fact to withstand summary judgment." (*Kerr v. Rose* (1990) 216 Cal.App.3d 1551, 1564.)

Barreras also argues the court erroneously sustained the County's objection to her evidence that she had previously met with BOS members to raise her concerns about patient care. In her declaration, Barreras had asserted she had met earlier with BOS members in April 2014 and had drafted a memorandum addressing the problems she perceived existed with patient care. The County objected to the evidence as irrelevant, because the BOS had no role in the decision to terminate Barreras. We agree this ruling appears erroneous, because the proffered evidence is relevant to whether the County terminated Barreras for making complaints and drawing attention to the County's deficient patient care.

However, even if we were to consider this evidence, it does not aid Barreras. Barreras offers no evidence of a causal link between her earlier complaints to the BOS and her eventual termination. There is no evidence she suffered any adverse employment consequences after she made her initial complaints to the BOS. In fact, the record reflects that Barreras received a response addressing the concerns raised in her earlier April 2014 memorandum that included a reminder that the County has an "open door policy." Thus, her claim that her prior complaints to the BOS is evidence of the County's

improper motive is speculative and based on conjecture. (*Kerr v. Rose*, *supra*, 216 Cal.App.3d at p. 1564.)

For the same reasons, Barreras's evidence of previous retaliatory actions by the County are similarly speculative. In her deposition, Barreras described that in 2012, she and her colleagues forced Miller, the behavioral health director for the County's health department, to accept a co-facilitator to run meetings that were held to discuss improvements to the County's operations. In her deposition, Barreras also cited to a separate undated incident where she complained that employees of the adult behavioral health department did not have "flex time." Barreras asserted that after she raised these concerns, her "charts" and "stats" were monitored.

This evidence does not demonstrate a pattern or history of retaliation by the County. Again, Barreras does not submit evidence of any adverse actions taken against her following the 2012 incident involving Miller. Aside from Barreras's speculation, there is nothing to support her claim that her history of drawing attention to the County's deficiencies contributed to her termination in 2014. Moreover, Barreras's evidence must be " ' "specific" and "substantial" ' " to create a triable issue. (*Morgan*, *supra*, 88 Cal.App.4th at p. 69.) Barreras's description that she was retaliated against following her complaints about "flex time" at some unknown date does not satisfy either of those requirements. It is unclear when this action took place and what exactly having her "charts" and "stats" monitored entailed. These prior incidents also do not demonstrate a nexus between her appearance at the 2014 BOS meeting and her subsequent termination.

In sum, Barreras failed to produce substantial, credible evidence from which a rational tier of fact could conclude the County's " 'stated reasons were untrue or pretextual, or that the employer acted with discriminatory [or retaliatory] *animus*.' " (*Serri*, *supra*, 226 Cal.App.4th at p. 861.) All of Barreras's causes of action rely on her allegations she was terminated because she was vocal about her concerns over the County's treatment of mental health patients. Yet aside from the temporal proximity of

her termination and her appearance at the July 2014 BOS meeting, Barreras offers nothing more than speculation and her own subjective belief that the County had an improper motive when it terminated her employment. (*Loggins v. Kaiser Permanente Internat.* (2007) 151 Cal.App.4th 1102, 1112-1113 [temporal proximity alone insufficient to raise triable issue of material fact that employer's proffered reason for adverse employment action was pretextual]; *Kerr v. Rose*, *supra*, 216 Cal.App.3d at pp. 1563-1564 [plaintiff's suspicions of improper motives based on conjecture and speculation cannot create a triable issue of material fact].) A "plaintiff's subjective beliefs in an employment [retaliation] case do not create a genuine issue of fact; nor do uncorroborated and self-serving declarations." (*King*, *supra*, 152 Cal.App.4th at p. 433.)

Having failed to produce sufficient evidence to demonstrate there is a triable issue of material fact that her termination was retaliatory, the trial court properly granted summary judgment in the County's favor.[12]

DISPOSITION

The judgment is affirmed. Respondent is entitled to its costs on appeal.

[12] In its respondent's brief, the County further argues summary judgment was properly granted with respect to Barreras's whistleblowing claim under Labor Code section 1102.5, because she did not engage in activities protected by that statute—i.e., disclose that the County had violated some federal or state law, rule, or regulation. (*Mueller v. County of Los Angeles* (2009) 176 Cal.App.4th 809, 821-822.) We need not reach the merits of this argument. Our conclusion that Barreras did not provide evidence showing there was a nexus between her complaints about the County's behavioral health system and her termination is sufficient to uphold the trial court's grant of summary judgment.

Greenwood, P.J.

WE CONCUR:

Elia, J.

Grover, J.

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